THE HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION No. 1062 OF 2006

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ORDER:

The petitioners filed the instant writ petition seeking a declaration that the action of the respondents 1 and 2, viz. the Commissioner, Tandur Municipal Council and its Municipal Engineer, in asking the petitioners to remove the household articles and utensils from the premises bearing Nos.7-7-9, 7-7-10, 7-7-6, 7-7-35, 7-7-1, 7-7-30, 7-7-32, 7-7-29, 7-7-33 and 7-7-11, situated at Station Road, Tandur, Ranga Reddy, as illegal and unconstitutional and for a consequential direction to the respondents not to dispossess the petitioners.

It is the case of the petitioners that the various non-residential premises were initially leased out by the first respondent-Municipality prior to 1983 and the petitioners had been paying rents regularly. They allege that the houses were constructed on land admeasuring 47 sq. yards to 141 sq. yards by investing considerable amounts. In November, 2005, they allege, the respondents approached them directing to vacate the premises in their occupation and also threatened with coercive steps. In the meanwhile, Government issued G.O.Ms.No.1601 Revenue (ASN.I) Department dated 29-08-2005 introducing a scheme for regularization of encroachments for dwelling houses. They approached the respondents for regularization of their possession. Even while they are pending, on 21-01-2006, the Chairperson of Tandur Municipality came to the petitioners' property and directed them to vacate the premises. Therefore, the present writ petition is filed.

When the matter was called on 24-01-2006, the learned Standing Counsel made a submission that petitioners or their predecessors in title approached the Civil Court and filed a suit. Thereafter, again they filed the present writ petition without disclosing the necessary facts. Therefore, the matter was adjourned directing the learned Standing Counsel for respondents 1 and 2 to file counter affidavit. Today, when the case is called, a detailed counter affidavit is filed.

In the counter affidavit, it is stated that the municipality constructed 10 shops and let out to various persons on rent. Some of the tenants died and the lease also came to an end. However, some lessees/tenants filed various suits being O.S.No.61/93 and O.S.Nos.96, 97 and 98 of 1993 for perpetual injunction, on the file of the Court of the District Munsif, Tandur. These suits were dismissed. The plaintiffs filed appeals before the Court of the Senior Civil Judge, Vikarabad, which were also dismissed. The Second Appeals before this Court as well as Special Leave Petitions were also dismissed and thereafter the municipality issued notices to all the occupants on 24-06-2003 for vacating; in spite of them, they did not vacate and when necessary

action is being initiated, the present writ petition is filed.

The learned Standing Counsel has placed before this Court, the copies of the judgments of the various Courts, which were decided against the petitioners or their predecessors, or persons who inducted the petitioners into possession. Without disclosing all this, the present writ petition is filed and the writ petition is liable to be dismissed for *suppressio veri* and *suggestio falsi.* Secondly, the reliance placed on the orders of the Government in G.O.Ms.No.1601 dated 29-08-2005 is misconceived. A reading of the said G.O. would show that, initially the Government issued G.O.Ms.No.508 Revenue (Assn.I) Department dated 20-10-1995 directing regularization of encroachment of Government land for the purpose of dwelling houses. Subsequently, the time limit prescribed in the said G.O. expired. Therefore, the Government issued G.O.Ms.No.1601 on similar lines directing regularization of encroachment of Government land where poor persons constructed or raised huts or houses. The said G.O. is applicable only when a poor person is in possession of Government land for the purpose of dwelling house. The same has no application in case of the non-residential shops constructed by municipality and let out to tenants.

The writ petition is misconceived and is accordingly dismissed. No costs.

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(V.V.S. RAO, J)

27-01-2006

MRR

THE HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION No.1062 OF 2006

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Dated: 27-01-2006

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Between:

Smt. Musarrath Jahan, W/o. Mohd. Abdul Hameed,

aged about 42 years, R/o. H.No.7-7-9, Station Road,

Tandur, Ranga Reddy District, and nine others.

… Petitioners

And

The Commissioner, Municipal Council,

Tandur, Ranga Reddy District, and three others.

… Respondents